

SENSE OF CONGRESS WITH REGARD TO THE 50TH ANNI-
VERSARY OF BROWN VERSUS BOARD OF EDUCATION

MAY 12, 2004.—Referred to the House Calendar and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H. Con. Res. 414]

The Committee on the Judiciary, to whom was referred the con-
current resolution (H. Con. Res. 414) expressing the sense of the
Congress that, as Congress recognizes the 50th anniversary of the
Brown v. Board of Education decision, all Americans are encour-
aged to observe this anniversary with a commitment to continuing
and building on the legacy of Brown, having considered the same,
report favorably thereon without amendment and recommend that
the concurrent resolution be agreed to.

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PURPOSE AND SUMMARY

The purpose of H. Con. Res. 414 is to express the sense of Con-
gress that, as Congress recognizes the 50th anniversary of the
Brown v. Board of Education decision, all Americans are encour-
aged to observe this anniversary with a commitment to continuing
and building on the legacy of Brown.

BACKGROUND AND NEED FOR THE LEGISLATION

On May 17, 1954, the United States Supreme Court handed down its landmark decision in *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), declaring that “in the field of public education the doctrine of ‘separate but equal’ has no place.” This decision marked a sharp and stunning reversal of a doctrine established in *Plessy v. Ferguson*, 163 U.S. 537 (1896), which had held that segregation of public facilities was lawful. Armed with the *Plessy* decision, state legislatures throughout the country, but particularly in the South, felt emboldened to continue and expand upon their segregationist policies, particularly in public schools. These policies ensured that the right to equal protection of the laws under the Fourteenth Amendment was a right in name only for African Americans and other minority groups.

The national nature of this problem was exemplified by the four cases consolidated into the 1954 *Brown* decision.¹ Oliver Brown challenged the school board of Topeka, Kansas on its segregation policy, in part because Oliver’s daughter, Linda, had to walk past a far superior all-white school to reach her segregated elementary school, which was located miles from her home. A student strike caused by the gross inequalities of the separate school systems in Prince Edward County, Virginia, led to the case of *Davis v. County School Bd.*, 103 F. Supp. 337 (E.D.Va. 1952). The case of *Briggs v. Elliot*, 103 F. Supp. 920 (E.D.S.C. 1952), was brought by parents concerned with the gross inequalities in terms of buildings, transportation, and teacher salaries in the segregated school system of Clarendon County, South Carolina. And *Gebhart v. Belton*, 91 A.2d 137 (Del. 1952), marked a victory for the African American school children of Claymont, Delaware, who had previously been prevented from attending the local high school.

These segregation cases were initially argued before the Supreme Court during the 1952 term, but the Court delayed decision and asked for reargument on October 12, 1953, on five questions relating to the circumstances surrounding the 1868 adoption of the Fourteenth Amendment. This reargument was further delayed, however, when Chief Justice Vinson died on September 8, 1953. At this critical moment, President Eisenhower selected the former Governor of California, Earl Warren, as his nominee for Chief Justice. It was Chief Justice Warren who guided a unanimous Supreme Court to declare that “separate facilities are inherently unequal” and the policy of school segregation violated the equal protection clause of the Fourteenth Amendment, thus paving the way for integrated school facilities for all children in the United States.²

Brown was not the beginning of the struggle for equality in public schools. Indeed, seven years prior to *Brown*, Gonzalo and Felicitas Mendez had successfully challenged the segregation of Mexican American children from public schools in California.³ Nor did *Brown* mark the end of that struggle, either. Indeed, *Brown*’s

¹A fifth case, *Bolling v. Sharpe*, 347 U.S. 497 (1954), dealing with school segregation in the District of Columbia, was decided separately on the grounds that the Fourteenth Amendment did not apply to the District. The Supreme Court ruled, however, that the Fifth Amendment also forbids segregation.

²347 U.S. at 495.

³*Westminster School Dist. v. Mendez*, 161 F.2d 774 (9th Cir. 1947). Indeed, the *Mendez* decision provided an important proving ground for the arguments that Thurgood Marshall, who filed an *amicus* brief in the case, would later use before the Supreme Court in the *Brown* cases.

most important legacy may be in the role that it played in sparking the civil rights movement. For it was *Brown's* pronouncements that emboldened the Eisenhower Administration to push through the 1957 and 1960 Civil Rights Acts. Those acts, in turn, provided the blueprint for the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968. All of these acts played an important role in helping to eliminate the barriers to equality for African Americans that had existed in the decades prior to *Brown*.

HEARINGS

No hearings were held in the Committee on the Judiciary on H. Con. Res. 414.

COMMITTEE CONSIDERATION

On May 12, 2004, the Committee met in open session and ordered favorably reported the resolution H. Con. Res. 414 without amendment by a recorded vote of 23 to 0, a quorum being present. Subsequently, a motion to reconsider that vote was agreed to by voice vote. On reconsideration, on May 12, 2004, the Committee met in open session and ordered favorably reported the resolution H. Con. Res. 414 without amendment by a recorded vote of 27 to 0, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee notes that the following rollcall votes occurred during the committee's consideration of H. Con. Res. 414.

1. Motion to report H. Con. Res. 414 favorably. By a rollcall vote of 23 yeas to 0 nays the motion was agreed to:

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Hyde			
Mr. Coble	X		
Mr. Smith	X		
Mr. Gallegly	X		
Mr. Goodlatte	X		
Mr. Chabot	X		
Mr. Jenkins	X		
Mr. Cannon	X		
Mr. Bachus			
Mr. Hostettler	X		
Mr. Green	X		
Mr. Keller	X		
Ms. Hart	X		
Mr. Flake			
Mr. Pence			
Mr. Forbes	X		
Mr. King	X		
Mr. Carter	X		
Mr. Feeney	X		
Mrs. Blackburn			
Mr. Conyers			
Mr. Berman	X		
Mr. Boucher			
Mr. Nadler	X		
Mr. Scott	X		

ROLLCALL NO. 1—Continued

	Ayes	Nays	Present
Mr. Watt	X	.....	.....
Ms. Lofgren	X	.....	.....
Ms. Jackson Lee .....	.....	.....	.....
Ms. Waters .....	.....	.....	.....
Mr. Meehan .....	.....	.....	.....
Mr. Delahunt .....	.....	.....	.....
Mr. Wexler .....	.....	.....	.....
Ms. Baldwin	X	.....	.....
Mr. Weiner .....	.....	.....	.....
Mr. Schiff	X	.....	.....
Ms. Sanchez	X	.....	.....
Mr. Sensenbrenner, Chairman	X	.....	.....
Total	23	.....	.....

2. On second vote on the motion to report H. Con. Res 414 favorably after a motion to reconsider was passed by voice vote. By a rollcall vote of 27 yeas to 0 nays the motion was agreed to:

ROLLCALL NO. 2

	Ayes	Nays	Present
Mr. Hyde .....	.....	.....	.....
Mr. Coble	X	.....	.....
Mr. Smith	X	.....	.....
Mr. Gallegly .....	.....	.....	.....
Mr. Goodlatte	X	.....	.....
Mr. Chabot	X	.....	.....
Mr. Jenkins .....	.....	.....	.....
Mr. Cannon	X	.....	.....
Mr. Bachus .....	.....	.....	.....
Mr. Hostettler	X	.....	.....
Mr. Green	X	.....	.....
Mr. Keller	X	.....	.....
Ms. Hart	X	.....	.....
Mr. Flake	X	.....	.....
Mr. Pence .....	.....	.....	.....
Mr. Forbes	X	.....	.....
Mr. King	X	.....	.....
Mr. Carter	X	.....	.....
Mr. Feeney	X	.....	.....
Mrs. Blackburn	X	.....	.....
Mr. Conyers	X	.....	.....
Mr. Berman	X	.....	.....
Mr. Boucher .....	.....	.....	.....
Mr. Nadler	X	.....	.....
Mr. Scott	X	.....	.....
Mr. Watt	X	.....	.....
Mr. Lofgren	X	.....	.....
Ms. Jackson Lee	X	.....	.....
Ms. Waters	X	.....	.....
Mr. Meehan .....	.....	.....	.....
Mr. Delahunt .....	.....	.....	.....
Mr. Wexler .....	.....	.....	.....
Mr. Baldwin	X	.....	.....
Mr. Weiner .....	.....	.....	.....
Mr. Schiff	X	.....	.....
Ms. Sanchez	X	.....	.....
Mr. Sensenbrenner, Chairman	X	.....	.....
Total	27	.....	.....

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

COMMITTEE COST ESTIMATE

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee believes that the concurrent resolution will have no cost for the current fiscal year 2004, and that there will be no cost incurred in carrying it out for the next five fiscal years.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goals of H. Con. Res. 414 are to recognize and celebrate the 50th Anniversary of the United States Supreme Court's decision in *Brown v. Board of Education* and to renew Congress's commitment to continuing the legacy of *Brown*.

CONSTITUTIONAL AUTHORITY STATEMENT

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives does not apply because this is a concurrent resolution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The first clause of the preamble provides that on May 17, 1954, the United States Supreme Court announced in *Brown v. Board of Education*, 347 U.S. 483 (1954), that, "in the field of education, the doctrine of 'separate but equal' has no place."

The second clause of the preamble provides that the *Brown* decision overturned the precedent set in 1896 in *Plessy v. Ferguson*, 163 U.S. 537 (1896), which had declared "separate but equal facilities" constitutional and allowed the continued segregation of public schools in the United States on the basis of race.

The third clause of the preamble provides that the *Brown* decision recognized as a matter of law that the segregation of public schools deprived students of the equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States.

The fourth clause of the preamble provides that the *Brown* decision stood as a victory for plaintiff Linda Brown, an African American third grader who had been denied admission to an all white public school in Topeka, Kansas.

The fifth clause of the preamble provides that the *Brown* decision stood as a victory for those plaintiffs similarly situated to Linda

Brown in the cases that were consolidated with *Brown*, which included *Briggs v. Elliot*, 103 F. Supp. 920 (E.D.S.C. 1952), *Davis v. County School Board*, 103 F. Supp. 337 (E.D.Va. 1952), and *Gebhart v. Belton*, 91 A.2d 137 (Del. 1952).

The sixth clause of the preamble provides that the *Brown* decision stood as a victory for those that had successfully dismantled school segregation years before *Brown* through legal challenges such as *Westminster School District v. Mendez*, 161 F.2d 774 (9th Cir. 1947), which ended segregation in schools in Orange County, California.

The seventh clause of the preamble provides that the *Brown* decision stands among all civil rights cases as a symbol of the federal government's commitment to fulfill the promise of equality.

The eighth clause of the preamble provides that the *Brown* decision helped lead to the repeal of "Jim Crow" laws and the elimination of many of the severe restrictions placed on the freedom of African Americans.

The ninth clause of the preamble provides that the *Brown* decision helped lead to the enactment of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, religion, or national origin in workplaces and public establishments that have a connection to interstate commerce or are supported by the state.

The tenth clause of the preamble provides that the *Brown* decision helped lead to the enactment of the Voting Rights Act of 1965 which promotes every American's right to participate in the political process.

The eleventh clause of the preamble provides that the *Brown* decision helped lead to the enactment of the Fair Housing Act of 1968 that prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-relating transactions, on the basis of race, color, national origin, religion, sex, familial status, or disability.

The resolved clause provides that it is the sense of the House of Representatives, with the Senate concurring, that the Congress

(1) recognizes and celebrates the 50th anniversary of the *Brown v. Board of Education* decision;

(2) encourages all Americans to recognize and celebrate the 50th anniversary of the *Brown v. Board of Education* decision; and

(3) renews its commitment to continuing and building on the legacy of *Brown* with a pledge to acknowledge and address the modern day disparities that remain.

CHANGES IN EXISTING LAW BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, the Committee notes H. Con. Res. 414 makes no changes to existing law.